

IN THE UNITED STATES OF DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

JEANNETTE STALEY	)	
	)	
	)	Civil Action No. <b>17cv669</b>
	)	
Plaintiff,	)	Cook County, Illinois Case
	)	No.: 16 L 12528
v.	)	
	)	<b>JURY TRIAL DEMANDED</b>
SUNRISE SENIOR LIVING	)	
MANAGEMENT, INC.,	)	
MS BARRINGTON, SH, LLC;	)	
SUNRISE SENIOR LIVING SERVICES,	)	
	)	
Defendants.	)	

**NOTICE OF REMOVAL**

**NOW COME**, the Defendants, SUNRISE SENIOR LIVING MANAGEMENT, INC., MS BARRINGTON, SH, LLC, and SUNRISE SENIOR LIVING SERVICES, INC. (collectively the "Defendants"), by and through their attorneys, PRETZEL & STOUFFER, CHARTERED, and hereby remove this civil action being case number 16 L 12528 from the Circuit Court of Cook County, Illinois, to the United States District Court for the Northern District of Illinois, Eastern Division, pursuant to 28 USC §1441 and §1332. In support thereof, the Defendants state as follows:

1. This action was filed in the Circuit Court of Cook County, State of Illinois on December 22, 2016. (See Complaint at Law, attached hereto as "**Exhibit A**"). A copy of the Complaint was served upon Sunrise Senior Living Management, Inc. and MS Barrington SH, LLC on December 29, 2016 and the Complaint was served upon Sunrise Senior Living Service, Inc. on January 5, 2017. (See Service of Process Transmittals, attached hereto as "**Exhibit B**"). This notice is filed within 30 days after service of the Complaint upon the Defendants.

2. Any civil action brought in a state court of which the District Courts of the United States have original jurisdiction may be removed by the defendant to the District Court of the United States for the district and division embracing the place where such action is pending. 28 USC §§ 1441.

3. The District Courts shall have original jurisdiction of all civil actions where the amount in controversy exceeds \$75,000.00, exclusive of interest and costs, and where there is complete diversity. 28 USC §§ 1332. There is complete diversity when, at the time that the action was commenced, every plaintiff is of diverse citizenship as every defendant. *Id.*

4. At the time the action was commenced, the plaintiff was a citizen of the State of Illinois.

5. At the time the action was commenced, the Defendants were not citizens of the State of Illinois.

6. At the time the action was commenced, Defendant, SUNRISE SENIOR LIVING MANAGEMENT, INC., was a corporation organized and existing under the laws of Virginia. SUNRISE SENIOR LIVING MANAGEMENT, INC.'s principal place of business was in Virginia at the time the action was commenced.

7. At the time the action was commenced, Defendant, MS BARRINGTON SH, LLC, was a limited liability company organized and existing under the laws of Delaware. MS BARRINGTON SH, LLC's principal place of business was in Kentucky at the time the action was commenced.

8. The sole member of MS BARRINGTON SH, LLC is VENTAS MS HOLDINGS, LLC, which is a Delaware limited liability company with its principal place of business in Kentucky.

9. The sole member of VENTAS MS HOLDINGS, LLC is VENTAS SSL HOLDINGS, INC. a Delaware corporation with its principal place of business in Kentucky.

10. At the time the action was commenced, Defendant, SUNRISE SENIOR LIVING SERVICES, INC., was a corporation organized under the laws and existing under the laws of Delaware. SUNRISE SENIOR LIVING SERVICES, INC.' s principal place of business was in Virginia at the time the action was commenced.

11. Defendant, SUNRISE SENIOR LIVING SERVICES, INC. is an improper party as it does not have a role in the ownership, operation, or management of the community.

12. The amount in controversy could exceed \$75,000.00, exclusive of interest and costs, as Plaintiff alleges that Defendant's conduct allegedly caused or allowed the Plaintiff, Jeannette Staley, to fall resulting in the fracture of her left shoulder. The Plaintiff also alleges that Defendant's alleged negligence caused injury to the Plaintiff's kidney function due to dehydration. Plaintiff is claiming additional damages including pain, suffering, disability and medical costs.

13. Plaintiff contends that the damages at issue exceed \$50,000, and requests all other relief in addition to those compensatory damages.

14. Based upon this information, there is a good faith basis to find that the amount in controversy could exceed the jurisdictional amount of \$75,000.00, exclusive of interest and costs.

15. Therefore, the United States District Courts have original jurisdiction for this civil action under 28 USC § 1332 because there is complete diversity and the amount in controversy could exceed \$75,000.00, exclusive of interest and costs.

16. This Notice of Removal is filed in the United States District Court for the Northern District of Illinois, Eastern Division, which is the district and division in which the State action is

pending.

17. Defendant has attached to this Notice copies of process and pleadings that have been served upon it.

**WHEREFORE**, Defendants, SUNRISE SENIOR LIVING MANAGEMENT, INC., MS BARRINGTON, SH, LLC, and SUNRISE SENIOR LIVING SERVICES, INC., pray that this cause be removed to the United States District Court for the Northern District of Illinois, Eastern Division.

s/Robert E. Sidkey  
Robert E. Sidkey  
(Illinois Bar No. 6271444)  
Pretzel & Stouffer, Chartered  
One South Wacker Drive, Ste. 2500  
Telephone: (312) 578-7489  
Fax: (312) 346-8242  
E-Mail: [rsidkey@pretzel-stouffer.com](mailto:rsidkey@pretzel-stouffer.com)  
*One of the Attorneys for the Defendants*



**CERTIFICATE OF SERVICE**

A copy of Defendant's **Notice of Removal and Attestation**, was filed electronically this 27<sup>th</sup> day of **January 2017**. Notice of this filing will be sent to all parties by operation of the Court's electronic filing system. Parties may access this filing through the court's electronic system.

**ATTORNEYS FOR PLAINTIFF**

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Marszalek & Marszalek  
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# **EXHIBIT A**

ELECTRONICALLY FILED  
12/22/2016 2:19 PM  
2016-L-012528  
CALENDAR: C  
PAGE 1 of 5  
CIRCUIT COURT OF  
COOK COUNTY, ILLINOIS  
LAW DIVISION  
CLERK DOROTHY BROWN

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS  
COUNTY DEPARTMENT, LAW DIVISION

JEANNETTE STALEY,	)	
	)	
PLAINTIFF,	)	
	)	
vs.	)	CASE NO.
	)	
	)	
SUNRISE SENIOR LIVING	)	
MANAGEMENT INC., a foreign	)	
corporation, MS BARRINGTON	)	
SH, LLC, a foreign limited liability	)	
company d/b/a SUNRISE OF	)	
BARRINGTON and SUNRISE SENIOR	)	
LIVING SERVICES, INC., a foreign	)	
corporation,	)	
	)	
DEFENDANTS.	)	

COMPLAINT AT LAW

NOW COMES the Plaintiff, JEANNETTE STALEY, by and through her attorneys, MARSZALEK & MARSZALEK and LAW OFFICE OF PHILIP J. FARINA, and complaining of the Defendants, SUNRISE SENIOR LIVING MANAGEMENT, INC., MS BARRINGTON SH, LLC d/b/a SUNRISE OF BARRINGTON and SUNRISE SENIOR LIVING SERVICES, INC., states as follows:

1. Plaintiff, JEANNETTE STALEY, brings this action pursuant to the provisions of 210 ILCS 45/1-101 et seq., commonly known as the Nursing Home Care Act of the State of Illinois.
2. At all times, relevant to this Complaint, JEANNETTE STALEY was a resident of the nursing home located at 510 W. Northwest Highway, Barrington, Illinois.



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2016-L-012528  
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3. At all times relevant to this Complaint, the Defendants, SUNRISE SENIOR LIVING MANAGEMENT INC., MS BARRINGTON SH, LLC d/b/a SUNRISE OF BARRINGTON and SUNRISE SENIOR LIVING SERVICES, INC. were the owners of a nursing home located at 510 W. Northwest Highway, Barrington, Illinois.
4. At all times relevant to this Complaint, the Defendants, SUNRISE SENIOR LIVING MANAGEMENT INC., MS BARRINGTON SH, LLC d/b/a SUNRISE OF BARRINGTON and SUNRISE SENIOR LIVING SERVICES, INC. were the licensees of a nursing home located at 510 W. Northwest Highway, Barrington, Illinois.
5. At all times relevant to this Complaint, the Defendants, SUNRISE SENIOR LIVING MANAGEMENT INC., MS BARRINGTON SH, LLC d/b/a SUNRISE OF BARRINGTON and SUNRISE SENIOR LIVING SERVICES, INC. operated a nursing home located at 510 W. Northwest Highway, Barrington, Illinois.
6. At all times relevant to this Complaint, there was in full force and effect, a statute known as the **Nursing Home Care Act**, as amended (the "ACT"), **210 ILCS 45/1-101 et seq.**
7. The Nursing Home Care Act, as amended, provides as follows:

The owner and licensees are liable to a resident for any intentional or negligent act or omission of their agents or employees which injures the resident, 210 ILCS 45/3-601.
8. At all times relevant to the Complaint, the nursing home owned and operated by Defendants, SUNRISE SENIOR LIVING MANAGEMENT INC., MS BARRINGTON SH, LLC d/b/a SUNRISE OF BARRINGTON and SUNRISE SENIOR LIVING SERVICES, INC. was a "**facility**" as defined by **45/1-113** of the Act and was subject to the regulations of the Act and the regulations of the Illinois Department of Public Health promulgated pursuant to the Act.
9. At all times relevant to this Complaint, the nursing home was defined as a "**nursing facility**" and subject to the requirements of 42 U.S.C. §1396(r) (1990) et seq., as amended by the Omnibus Budget Reconciliation Act of the 1987 ("**OBRA**") and Volume 42, Code of Federal Regulations, Part 483 setting forth Medicare and Medicaid Requirements for Long Term Facilities ("**OBRA Regulations**").

10. At all times relevant to this Complaint, Defendants SUNRISE SENIOR LIVING MANAGEMENT INC., MS BARRINGTON SH, LLC d/b/a SUNRISE OF BARRINGTON and SUNRISE SENIOR LIVING SERVICES, INC., by and through their employees and agents, had a duty to exercise the care required of a nursing home owner, licensee and/or operator in the same or similar circumstances.
11. Before March 15, 2016, Defendants SUNRISE SENIOR LIVING MANAGEMENT, INC., MS BARRINGTON SH, LLC d/b/a SUNRISE OF BARRINGTON and SUNRISE SENIOR LIVING SERVICES, INC. had notice that Plaintiff JEANNETTE STALEY was at risk for falling because Plaintiff had fallen at the nursing home on both March 28, 2015 and April 1, 2015.
12. On or about June 3, 2015, Plaintiff suffered an acute stroke while she was a resident in Defendants' nursing home in Barrington, Illinois.
13. Following Plaintiff's stroke in June, 2015, a physician ordered that Defendants utilize two (2) assistants rather than one (1) to transfer Plaintiff to and from her wheel chair when Plaintiff needed to use the bath room.
14. During the period of JEANNETTE STALEY'S residency at the nursing home, the Defendants SUNRISE SENIOR LIVING MANAGEMENT INC., MS BARRINGTON SH, LLC d/b/a SUNRISE OF BARRINGTON and SUNRISE SENIOR LIVING SERVICES, INC., by and through their employees and agents, breached its duties and were negligent as a result of one of more of the following negligent acts or omissions:
  - a. Failed to assist Plaintiff Jeannette Staley when transferring from a commode in the bath room to her wheel chair on March 25, 2016;
  - b. Failed to provide a sufficient number of assistants to Plaintiff Jeannette Staley when she was transferring from a commode in the bath room to her wheel chair on March 25, 2016;
  - c. Disobeyed a physician's order which required two assistants to transfer Plaintiff Jeannette Staley from a commode in her bath room to her wheel chair on March 25, 2016;
  - d. Failed to take adequate and necessary precautions to prevent Plaintiff from falling in her room on March 28, 2016,

three days after Plaintiff fell in the bath room fracturing her left shoulder;

- e. Failed to adequately nourish and hydrate Plaintiff for a period of time before July 9, 2016.

15. As a direct and proximate result of one or more of the negligent acts or omissions in Paragraph 14, Plaintiff fell and fractured her left shoulder on March 25, 2016, causing Plaintiff to incur substantial expense for necessary medical care, causing Plaintiff to experience extreme pain and suffering and causing Plaintiff to lose her normal enjoyment of life. In addition, Plaintiff suffered injury to her kidney function, first diagnosed in July, 2016, due to dehydration.

WHEREFORE, Plaintiff Jeannette Staley prays for judgement against Defendants SUNRISE SENIOR LIVING MANAGEMENT, INC., MS BARRINGTON SH, LLC d/b/a SUNRISE OF BARRINGTON and SUNRISE SENIOR LIVING SERVICES, INC. for an amount in excess of Fifty Thousand Dollars (\$50,000.00), plus costs and plus reasonable attorneys fees pursuant to the aforementioned Nursing Home Care Act.

  
One of Plaintiff's Attorneys

John E. Marszalek  
Marszalek and Marszalek  
Attorneys for Plaintiff  
120 W. Madison St., Suite 801  
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[john@marslawfirm.com](mailto:john@marslawfirm.com)  
Code 24882

Philip J. Farina  
Law Office of Philip J. Farina  
Attorneys for Plaintiff  
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Chicago, IL 60602  
(312) 782-3678  
[pfarinalaw@sbcglobal.net](mailto:pfarinalaw@sbcglobal.net)

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS  
COUNTY DEPARTMENT, LAW DIVISION

JEANNETTE STALEY,

Plaintiff,

-v-

SUNRISE OF BARRINGTON,

Defendant.

)  
)  
)  
) No.  
)  
)  
)  
)  
)

AFFIDAVIT PURSUANT TO SUPREME COURT RULE 222

NOW COMES Plaintiff JEANNETTE STALEY and states as follows:

1. I am the plaintiff in this case.
2. The total amount of money damages I am seeking in this case is more than \$50,000.00.

Further, affiant says not.

  
Plaintiff JEANNETTE STALEY

10/29/16  
Date

ELECTRONICALLY FILED  
12/22/2016 2:19 PM  
2016-L-012528  
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# **EXHIBIT B**



**Service of Process  
Transmittal**

12/29/2016

CT Log Number 530416582

**TO:** Kimberly Wilburn  
Sunrise Senior Living, Inc.  
7902 Westpark Dr  
McLean, VA 22102-4202

**RE: Process Served in Illinois**

**FOR:** Sunrise Senior Living Management, Inc. (Domestic State: VA)

**ENCLOSED ARE COPIES OF LEGAL PROCESS RECEIVED BY THE STATUTORY AGENT OF THE ABOVE COMPANY AS FOLLOWS:**

**TITLE OF ACTION:** Jeannette Staley, Pltf. vs. Sunrise Senior Living Management, Inc., etc., et al., Dfts.  
**DOCUMENT(S) SERVED:** Summonses, Attachment(s), Complaint, Affidavit(s)  
**COURT/AGENCY:** Cook County Circuit Court - County Department - Law Division, IL  
Case # 2016L012528  
**NATURE OF ACTION:** Medical Injury - Improper Care and Treatment  
**ON WHOM PROCESS WAS SERVED:** C T Corporation System, Chicago, IL  
**DATE AND HOUR OF SERVICE:** By Process Server on 12/29/2016 at 10:30  
**JURISDICTION SERVED :** Illinois  
**APPEARANCE OR ANSWER DUE:** Within 30 days after service of this Summons, not counting the day of service  
**ATTORNEY(S) / SENDER(S):** Philip J. Farina  
Law Office of Philip J. Farina  
120 W. Madison St., Suite 801  
Chicago, IL 60602  
312-782-3678  
**ACTION ITEMS:** SOP Papers with Transmittal, via UPS Next Day Air , 1Z0399EX0139264797  
Image SOP  
Email Notification, Kimberly Wilburn kimberly.wilburn@sunriseseniorliving.com  
Email Notification, Martin Brown Martin.Brown@sunriseseniorliving.com  
Email Notification, Jeannie Blood jean.blood@sunriseseniorliving.com  
Email Notification, Sheila Rodwill sheila.rodwill@sunriseseniorliving.com  
**SIGNED:** C T Corporation System  
**ADDRESS:** 208 South LaSalle Street  
Suite 814  
Chicago, IL 60604  
**TELEPHONE:** 312-345-4336



**Service of Process  
Transmittal**

12/29/2016

CT Log Number 530416679

**TO:** T. Richard Riney  
Ventas, Inc.  
10350 Ormsby Park Pl Ste 300  
Louisville, KY 40223-6177

**RE:** **Process Served in Illinois**

**FOR:** MS Barrington SH, LLC (Domestic State: DE)

**ENCLOSED ARE COPIES OF LEGAL PROCESS RECEIVED BY THE STATUTORY AGENT OF THE ABOVE COMPANY AS FOLLOWS:**

**TITLE OF ACTION:** JEANNETTE STALEY, Pltf. vs. SUNRISE SENIOR LIVING MANAGEMENT INC., etc., et al.,  
Dfts. // To: MS Barrington SH, LLC

**DOCUMENT(S) SERVED:** Summonses, Attachment(s), Complaint, Affidavit

**COURT/AGENCY:** Cook County Circuit Court - County Department - Law Division, IL  
Case # 2016L012528

**NATURE OF ACTION:** Medical Injury - Improper Care and Treatment - March 25, 2016

**ON WHOM PROCESS WAS SERVED:** C T Corporation System, Chicago, IL

**DATE AND HOUR OF SERVICE:** By Process Server on 12/29/2016 at 10:30

**JURISDICTION SERVED :** Illinois

**APPEARANCE OR ANSWER DUE:** Within 30 days after service, not counting the day of service

**ATTORNEY(S) / SENDER(S):** John E. Marszalek  
Marszalek and Marszalek  
120 W. Madison St., Suite 801  
Chicago, IL 60602  
312-456-1700

**ACTION ITEMS:** SOP Papers with Transmittal, via UPS Next Day Air , 1Z0399EX0115872522  
Image SOP  
Email Notification, Kristin Ashley kashley@ventasreit.com  
Email Notification, Terri Smith Theresa.Smith@ventasreit.com

**SIGNED:** C T Corporation System  
**ADDRESS:** 208 South LaSalle Street  
Suite 814  
Chicago, IL 60604  
**TELEPHONE:** 312-345-4336



**Service of Process  
Transmittal**

01/05/2017

CT Log Number 530443942

**TO:** Kimberly Wilburn  
Sunrise Senior Living, Inc.  
7902 Westpark Dr  
McLean, VA 22102-4202

**RE: Process Served in Illinois**

**FOR:** Sunrise Senior Living Services, Inc. (Domestic State: DE)

**ENCLOSED ARE COPIES OF LEGAL PROCESS RECEIVED BY THE STATUTORY AGENT OF THE ABOVE COMPANY AS FOLLOWS:**

**TITLE OF ACTION:** JEANNETTE STALEY, Pltff. vs. SUNRISE SENIOR LIVING MANAGEMENT INC., etc., et al.,  
Dfts. // To: SUNRISE SENIOR LIVING SERVICES  
*Name discrepancy noted.*

**DOCUMENT(S) SERVED:** Summonses, Complaint, Affidavit

**COURT/AGENCY:** Cook County Circuit Court - County Department - Law Division, IL  
Case # 2016L012528

**NATURE OF ACTION:** Medical Injury - Improper Care and Treatment - March 15, 2016

**ON WHOM PROCESS WAS SERVED:** C T Corporation System, Chicago, IL

**DATE AND HOUR OF SERVICE:** By Process Server on 01/05/2017 at 11:30

**JURISDICTION SERVED :** Illinois

**APPEARANCE OR ANSWER DUE:** Within 30 days after service of this Summons, not counting the day of service

**ATTORNEY(S) / SENDER(S):** John E. Marszalek  
Law Office of Philip J. Farina  
120 W. Madison St., Suite 801  
Chicago, IL 60602  
(312) 782-3678

**ACTION ITEMS:** SOP Papers with Transmittal, via UPS Next Day Air , 1Z0399EX0129306546  
Image SOP  
Email Notification, Kimberly Wilburn kimberly.wilburn@sunriseseniorliving.com  
Email Notification, Martin Brown Martin.Brown@sunriseseniorliving.com  
Email Notification, Jeannie Blood jean.blood@sunriseseniorliving.com  
Email Notification, Sheila Rodwill sheila.rodwill@sunriseseniorliving.com

**SIGNED:** C T Corporation System  
**ADDRESS:** 208 South LaSalle Street  
Suite 814  
Chicago, IL 60604  
**TELEPHONE:** 312-345-4336